

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

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20-CR-305 (LDH)

3 UNITED STATES OF AMERICA,

United States Courthouse  
Brooklyn, New York

5 -versus-

February 28, 2022  
11:00 a.m.

6 KARL JORDAN,

7 Defendant.

8 -----x

9 TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL APPLICATION  
10 BEFORE THE HONORABLE LASHANN DEARCY HALL  
UNITED STATES DISTRICT JUDGE

11 APPEARANCES

12 For the Government: UNITED STATES ATTORNEY'S OFFICE  
Eastern District of New York  
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Brooklyn, New York 11201  
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Assistant United States Attorney

15 For the Defendant: BY: MICHAEL HUESTON, ESQ.  
16 JOHN DIAZ, ESQ.  
MONICA NEJATHAIM, ESQ.

17 Also Present: ROBERT LONG, Pretrial

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22 produced by computer-aided transcription.

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*Rivka Teich CSR RPR RMR FCRR*  
*Official Court Reporter*

## BAIL APPLICATION

(In open court.)

THE COURTROOM DEPUTY: All Rise. Criminal cause for bail application. United States of America vs. Karl Jordan, docket 20-CR-305.

Would you all please state your appearances for the record, starting with the Government.

MR. McCONNELL: Good morning. Artie McConnell for the United States. I'm joined by Robert Long from Pretrial Services.

THE COURT: Hello.

MR. LONG: Good morning, your Honor.

THE COURT: Good to see you.

MR. LONG: Same.

MR. HUESTON: Good morning, your Honor. Michael Hueston and John Diaz and Monica Nejathaim for Karl Jordan who is standing next to me.

THE COURT: Good morning.

All right, folks, we're here today for a bail hearing determination in this matter.

This is your application, counsel, I'm going to ask that you proceed.

MR. HUESTON: Thank you, your Honor, I appreciate the opportunity.

THE COURT: If you could stand.

MR. HUESTON: Yes, your Honor.

*Rivka Teich CSR RPR RMR FCRR  
Official Court Reporter*

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1 I appreciate the opportunity to address the Court  
2 about this issue. Let me first say that I really want to  
3 focus on the strength of the package. What we propose is a  
4 million --

5 THE COURT: I don't think you should start with the  
6 package, that puts the cart before the horse, if I don't know  
7 a package is something I'm going to do. I think you should  
8 probably start with the basis for a bail in the first place.

9 MR. HUESTON: I appreciate that.

10 Looking at the case, clearly this is a presumption  
11 case. The issues that the Court has to consider are  
12 dangerousness and flight of risk.

13 We look at it in terms of the analysis in terms  
14 of -- I'll talk about dangerousness first. Clearly we have  
15 serious charges. I'm going to address the strength of the  
16 Government's case but I do want to talk about some other  
17 issues at well.

18 Let me talk about the strength of the Government's  
19 case. I think that's a critical factor for the Court to  
20 consider. What we pointed out in our investigation and  
21 dealing with the Government in the past 18, 19 months, we  
22 pressed for information showing that Mr. Jordan was involved  
23 in the Mizell homicide. What we've seen is the absolute  
24 absence on that point. I'm not making an overstatement. This  
25 is not hyperbole.

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1 Our client submitted to DNA testing against evidence  
2 at the crime scene. It was negative. There has been no  
3 surveillance video. There are no text messages. There is no  
4 cell-site dates, no ballistics, no forensics, no fingerprints.  
5 It's the absence of evidence.

6 On top of that, we notified the Court and submitted  
7 to the Government notice of alibi. We believe our alibi  
8 witnesses are exceptionally strong. Granted the Government  
9 can take its position, but I'll say this about them. We've  
10 noted in our application that one was a former correctional  
11 officer and is a school teacher. And the other one --

12 THE COURT: We're talking about, so I'm clear, there  
13 are two proposed alibi witnesses, one. Of whom is  
14 Mr. Jordan's mother; is that correct? And the other is an  
15 individual with whom he is in a relationship. I want to make  
16 sure I'm clear about who we're talking about; is that right?

17 MR. HUESTON: Your Honor, one correction. I  
18 appreciate the question to clarify it. No, it's not his  
19 mother. It's his girlfriend at the time.

20 THE COURT: Girlfriend at the time.

21 MR. HUESTON: Mother of his oldest child and her  
22 mother.

23 THE COURT: And her mother. I've got it. Fair  
24 enough.

25 MR. HUESTON: That's the alibi that we presented.

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1 THE COURT: Who is who? You were describing what  
2 they did, et cetera. The mom was the former correction  
3 officer?

4 MR. HUESTON: Yes, your Honor. The mother is the  
5 former correction officer and current school teacher. His  
6 girlfriend, or former girlfriend, is the mother of his eldest  
7 child.

8 THE COURT: They are prepared to testify at trial  
9 that Mr. Jordan was with them at the time of the Mizell  
10 homicide? Are you intending to put them before me today?

11 MR. HUESTON: No, your Honor.

12 THE COURT: What am I supposed to use to assess  
13 anything with respect to the credibility of the alibi  
14 witnesses to give the notion of the alibi witnesses any weight  
15 in this hearing at all? They are not here.

16 MR. HUESTON: Correct, they are not testifying  
17 today. We are not proffering them to testify.

18 THE COURT: How am I going to rely on anything about  
19 them if you're not going to proffer them so I can have the  
20 ability to assess them and what they have to say?

21 MR. HUESTON: Your Honor, we're proceeding by  
22 attorney proffer on this issue.

23 THE COURT: That's a tough one when this is, in  
24 large measure, some credibility determinations that I'd have  
25 to assess. But go ahead.

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1 MR. HUESTON: Your Honor, I take your point. We see  
2 it in terms of the broad issue. If you look at the pieces  
3 with the lack of evidence we've been putting together, we  
4 submitted the alibi. The Government is proceeding by proffer  
5 in many respects as well.

6 THE COURT: And an Indictment, which creates itself  
7 probable cause. So Mr. Jordan has been indicted on a number  
8 of offenses. That Indictment itself, right, creates probable  
9 cause for the Court to be able to consider. Yes?

10 MR. HUESTON: Yes, your Honor. We're not disputing  
11 this is a presumption case.

12 THE COURT: I get that.

13 MR. HUESTON: We're locked into that.

14 THE COURT: You referenced the Government proceeding  
15 by proffer, and I'm saying it's a little bit more than that.  
16 Because I do have, against the back drop of a Grand Jury  
17 Indictment, where there was sworn testimony that was provided  
18 to a Grand Jury.

19 MR. HUESTON: Yes, your Honor. What I'm referring  
20 to is there are many other proffers that the Government is  
21 making. I don't want to belabor the point. They made  
22 proffers about arrests, other issues. They are proceeding by  
23 proffer. We think it's appropriate also, granted, your Honor  
24 can assess our credibility on the issue, but I don't have much  
25 more to add on it.

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1 THE COURT: Right, but for the purposes of this case  
2 given the fact that it is a presumption case, it is your  
3 burden to come forth with evidence, right, for the Court to be  
4 able to assess. Evidence is the word.

5 MR. HUESTON: It's a limited presumption, your  
6 Honor. I do take your point. And it's a number of different  
7 factors.

8 The Government has to show by clear and convincing  
9 evidence that my client is a danger. Then also by a  
10 preponderance that he's a risk of flight. And we do have to  
11 make an assessment of the package in terms of the strength to  
12 overcome the presumption.

13 THE COURT: Right, but the rebuttal presumption --  
14 I'm reading your submission: To rebut the penalty supposition  
15 by coming forth with evidence that he does not pose a danger  
16 to the community or risk of flight.

17 Then of course if you're able to do that, then I  
18 would be looking to the Government and then asking them what  
19 they have in response. But the starting point is for you to  
20 proffer evidence that would rebut that presumption, then I  
21 would turn to them and ask them to meet their burden.

22 I want to first assess that you have met yours.

23 MR. HUESTON: I understand, your Honor. I  
24 appreciate it. I think it's the correct way to do it.

25 Let me speak to other points that go to the strength

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1 of the Government's case. For instance, I pointed out the  
2 lack of evidence in terms of forensics. What we really  
3 understand, this case is based on witness testimony. Another  
4 assessment that I think is a fair consideration for the Court,  
5 as we mentioned, is the number of Brady disclosures in this  
6 case, which is in our view, unprecedented. Our count, I don't  
7 think the Government disputes, is 14 different Brady  
8 disclosures that happened in this case. I think that's a fair  
9 assessment for the Court to look at.

10 THE COURT: Fourteen Brady disclosures with respect  
11 to the count which charges Mr. Jordan --

12 MR. HUESTON: The Mizell homicide.

13 Let me be fair, some of them have to do with issues  
14 that have to do with narcotics, but that's the minority, it's  
15 really the Mizell homicide.

16 The next issue I want to point out, your Honor, in  
17 terms of the Government's strength of the case, in terms of  
18 the assessment of -- I guess how the Government appears to  
19 want to prove its case. Reliance on rap lyrics, I want to  
20 talk about that. They said that's part of the mix.

21 THE COURT: It's not part of the mix for me. Let's  
22 be clear. Let me make it clear to the Government, because  
23 there are a number of pages in the Government's submission  
24 that does recount lyrics from rap music that that was  
25 performed or produced in this case as proffered by the



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1 Government by Mr. Jordan. Certainly the lyrics are  
2 particularly violent, but let's be clear, this is a genre of  
3 music that encourages and promotes violent language in its  
4 lyrics. And this is, in part, for the profit of the artists  
5 as well for the music executives, that my personal estimation  
6 is they profit greatly off of the encouragement of violence  
7 and misogyny, et cetera, in rap music. I'm not going to hold  
8 any individual accountable for the lyrics in a rap song that  
9 is consumed by our community; and in fact, it's consumed by  
10 me. So that's not part of the total mix for this Court.

11 However, there is much other information contained  
12 in the Government's submission that is not reliant upon lyrics  
13 to rap songs. There are interviews that they cited to that is  
14 not a lyric to a rap song. There are other violent crimes  
15 that Mr. Jordan is at least alleged to have been involved in.

16 And so we can take the rap music out of the mix.  
17 This is never going to be a courtroom where I'm going to  
18 penalize any individual for participating in that artistic  
19 form.

20 MR. HUESTON: Understood, your Honor. I'll move on  
21 from that portion.

22 One other factor before addressing a couple of  
23 points you brought up. The decision not to seek the death  
24 penalty. I think that's a fair consideration for the Court to  
25 look at the strength of the case.

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1 THE COURT: The strength of the case?

2 MR. HUESTON: Yes, your Honor. The decision itself,  
3 we do think that draws an inference of regarding the decision.  
4 When you look at the mitigating and aggregating factors,  
5 that's an assessment the Government makes. So clearly they  
6 made a decision not to seek, and that's an appropriate area  
7 for this Court to take note of.

8 THE COURT: You want me to, A, assume or make the  
9 logical leap that if the Government decides not to seek the  
10 death penalty in any death eligible case -- I have a number of  
11 death eligible cases on my docket -- that that determination  
12 in and of itself should suggest that the Government doubts the  
13 weight of the strength of its case as to the underlying crime?

14 MR. HUESTON: Your Honor, in terms of mitigating  
15 factors that's an assessment they look at in making that  
16 determination. That's the way --

17 THE COURT: One of many. I have no idea what went  
18 into the Government's determination why they didn't seek the  
19 death penalty in this case. I suspect if you examine the  
20 history of death penalty cases in this district, you would  
21 find that it is rare indeed that the Government seeks the  
22 death penalty. I don't believe that that necessarily suggests  
23 that the Government does not believe in the weight of the  
24 evidence in a particular crime. God, I hope that that's not  
25 what we're saying. Because then the suggestion should be that

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1 we should seek the death penalty almost willy nilly just to  
2 prove that the case is strong. And we wouldn't want that. I  
3 wouldn't want that. You wouldn't want that. Defendants  
4 wouldn't want that. Rather, we would like for the death  
5 penalty determination to be made based on the consideration of  
6 a host of factors. Yes? As opposed to simply guilt or  
7 innocence.

8 MR. HUESTON: I'm not suggesting otherwise. I'm  
9 not. I'm sorry if I'm not stating my argument as clearly. It  
10 is a factor -- underlying that decision is the issue about the  
11 lack of evidence, the issue of alibi. And we think it's  
12 factor that it vindicates our point regarding the strength of  
13 their case. Nothing more than that. That's all I'm  
14 suggesting.

15 THE COURT: Okay.

16 MR. HUESTON: Just to move on, your Honor. To go to  
17 the points in terms of you mentioned about violent criminal  
18 past. What the Government proffered on four different  
19 incidents, I would just note that two of them were dismissed  
20 and two of them resulted in violations, which are not crimes.  
21 So we do not believe it's a fair inference to draw that  
22 Mr. Jordan is dangerous based on those incidents.

23 THE COURT: Let be clear what we're talking about.  
24 There are a number of instances that were highlighted in the  
25 Government's submission. You are absolutely correct in your

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1 recitation of the disposition of those incidents. At least  
2 according to the Government, there were seven occasions, I  
3 believe, where Mr. Jordan had made sales of narcotics to an  
4 undercover officer. That's one among the incidents.

5 There is a February 2003 incident where Mr. Jordan  
6 was arrested in connection with a dispute that occurred where  
7 Mr. Jordan is alleged to have fired a semi-automatic pistol,  
8 and one shot into the air, for which he pled guilty to  
9 disorderly conduct.

10 There are incidents that it's alleged that  
11 Mr. Jordan, again in 2003, fired several shots from a gun and  
12 at an individual, one striking the individual in the leg.  
13 According to the Government, the witness refused to cooperate  
14 and, therefore, the charges were dismissed.

15 Then a 2004 incident where a search warrant was  
16 executed at Mr. Jordan's home. And in his home a 9-millimeter  
17 semi-automatic pistol was recovered, a loaded .32 caliber  
18 revolver, and a bullet-proof vest, along with 150 bags of  
19 marijuana, and various bags and foil wraps containing cocaine,  
20 and hundreds of glassine envelopes used for packaging  
21 narcotics. Yes?

22 These are the incidents that you wanted to highlight  
23 that the disposition was what in those three in particular?

24 MR. HUESTON: Your Honor, either dismissals or as  
25 you mentioned the disorderly conduct.

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1           What we're simply saying, your Honor, is that based  
2   on those dispositions, this Court cannot make an inference  
3   that the conduct itself was proven. The Government is  
4   proceeding by proffer. It would be different if they had a  
5   disposition to the fact. So that's the point --

6           THE COURT: Should I discount them all together  
7   because of the disposition? We know how the criminal justice  
8   system operates. We know there are various factors that can  
9   sometimes come into a disposition of a matter. We're not  
10   talking about one, but we're talking about many.

11           How should the Court view the numerosity of the  
12   alleged violent conduct notwithstanding the disposition?

13           MR. HUESTON: Your Honor, I think it's the same  
14   answer each time, that it should not be considered regardless  
15   of the amount. I don't think there is anything different in  
16   terms of the analysis. The lack of a disposition that ended  
17   against Mr. Jordan in a negative way is something that is just  
18   a fact. That's all I want to say about it.

19           THE COURT: He doesn't have an adult criminal  
20   record.

21           MR. HUESTON: He does not --

22           THE COURT: He has one juvenile.

23           MR. HUESTON: That's correct.

24           I'll talk about the 2017 issue which is, there was  
25   no arrest in that case. I do want to distinguish that. If

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1 can you hear me out on this, your Honor. I'm going to try to  
2 explain it as best I can.

3 THE COURT: Am I striking you as someone who will  
4 cut you off?

5 MR. HUESTON: At times, yes, your Honor. I  
6 appreciate an active judge who is involved. I appreciate that  
7 you keep me thinking. I appreciate what you're asking.

8 THE COURT: I'll hear you out. Go ahead.

9 MR. HUESTON: The 2017, what I would say is, one, he  
10 wasn't arrested for it. I want to point that out. That was  
11 the basis of the (b)(1)(c) weight in the case, the initial  
12 aspect which is not a presumption case. That's the only solid  
13 evidence we have seen. I say solid in terms of, the  
14 Government has something to point to, compared to what I  
15 talked about which is general statements about narcotics  
16 activity. Here they are saying we have video, we have audio  
17 for 2017.

18 I note, though, they did not arrest him in 2017, or  
19 '18, or '19 or '20. That raises an issue. One, if the  
20 Government believes he's this person who is involved with  
21 continuous narcotics activity, the decision not to arrest is  
22 perplexing. It goes towards whether or not this is really an  
23 overstatement that he's a person who is involved in so much  
24 narcotics activity.

25 Also it goes to in terms of dangerousness. As well,

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1 the decision not to arrest in 2017 says something about law  
2 enforcement's approach to him. It seems I think a fair  
3 inference to draw that they haven't, the deals happened, from  
4 their standpoint there was a lack of concern or bandwidth to  
5 address that issue. It cuts both ways that fact. So I want  
6 to point that out.

7 THE COURT: Give me a moment.

8 Much of your written submission focuses on your  
9 arguments concerning the Indictment as to Mr. Mizell's  
10 homicide. With respect to the remaining charges here, of  
11 which there are many, I want to make sure that I'm  
12 understanding that the thrust of your argument is that the  
13 Court should view the Government's -- if I'm putting words in  
14 your mouth you can correct me -- delay in acting upon any  
15 supposed belief in criminality here as suggesting that the  
16 strength of that case with respect to the other charges is  
17 underwhelming. That's the argument with respect to the  
18 remaining charges and that the Court should view the delay in  
19 the Government acting as somehow speaking to the strength of  
20 those charges?

21 MR. HUESTON: Yes, your Honor. Also I'd want to  
22 point out in terms of the cases that actually result in an  
23 arrest, I do think it's an important issue about the risk of  
24 flight. In those case there is no warrant history. I think  
25 that's a fair assessment. That Mr. Jordan was arrested on

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1 charges and there is no issue about him returning to court. I  
2 think that's a fair consideration.

3 I do want to talk a bit about the narcotics aspect  
4 of the case.

5 THE COURT: I want to take a step back. Mr. Jordan  
6 never faced charges that carry the sort of potential  
7 consequences as these charges do. As we've discussed, he  
8 doesn't have an adult record.

9 So shouldn't the Court consider isn't it an  
10 appropriate consideration for the Court the amount of time  
11 that Mr. Jordan could be subject to if found guilty? I  
12 believe the statutory minimums here, and you'll correct me if  
13 I'm wrong, if convicted of these charges, 25 years as a  
14 minimum.

15 So while I appreciate the arguments you made, how is  
16 it that the Court should view that? Isn't it the case that  
17 the Court should view that as a consideration for the purposes  
18 of risk of flight? He didn't previously flee, he didn't have  
19 prior charges. But now he has charges that could subject him  
20 to almost as many years in prison as he's been alive.

21 MR. HUESTON: Your Honor, he was arrested on four  
22 occasions. One, according to the Government, involved a  
23 shooting where someone was injured. I do think they are  
24 comparable, that's a serious charge. Here we have a shooting.  
25 The Government is alleging someone was wounded. He appeared



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1 and didn't flee. I think they are comparable to a degree.

2 Clearly, as you recite, your Honor, the amount of  
3 time goes into the decision, but that's also one of the  
4 reasons I do think this is a fair point to talk about the  
5 strength of the package.

6 We have 16 individuals who are family members and  
7 friends. You have the moral suasion. You have a bond of a  
8 million dollars and the absolute financial harm or devastation  
9 that would be set upon them if he were to violate his  
10 conditions or flee or commit a crime or violate the conditions  
11 of release. We have the issue of -- what we've proposed, is  
12 electronic monitoring, house arrest, and obviously where he  
13 would live have to be approved by Pretrial Services. We  
14 believe, that residence would be back with his girlfriend and  
15 his two children, and his girlfriend is an assistant deputy  
16 warden for the New York City Department of Corrections. We do  
17 think that's sufficient to allay -- to deal with the Court's  
18 concern, I should say, about a risk of flight. The package  
19 itself buttresses and makes sure that's not going to happen.  
20 It's a factor that this Court should look at.

21 For instance, if we came in here with one suretor  
22 and no package I think that's a fair consideration for the  
23 Court to look at. We have 16 suretors, financially  
24 responsible people and we propose a bond with property and  
25 cash. I do think that's a factor the Court should look at.

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1 THE COURT: This is the property of his father in  
2 Georgia; is that right?

3 MR. HUESTON: His father in Georgia. And my  
4 understanding it's not the grandmother it's the aunt, your  
5 Honor.

6 THE COURT: Your footnote three to the submission:  
7 They may be willing to post their properties.

8 Words matter. Why do you caveat that with "may."

9 MR. HUESTON: Your Honor, my understanding is that  
10 they will do it. It's not may. We've confirmed that. We  
11 stand by that 100 percent. They are willing to do it.

12 A couple of other points just to mention, your  
13 Honor.

14 THE COURT: All right.

15 MR. HUESTON: The other issue I want to point out  
16 this goes to our other basis. We also put forward an  
17 alternative argument of temporary release. On large part he  
18 has one kidney. He donated a kidney; his mother needed kidney  
19 transplant.

20 THE COURT: Which, by the way, is incredibly  
21 honorable and commendable on Mr. Jordan's part. Go ahead.

22 MR. HUESTON: And so we do think that during the  
23 time of COVID there is an issue.

24 THE COURT: Is there a medical basis to suggest that  
25 he's at a higher risk of having a negative COVID outcome by

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1 virtue of the fact that he has a single kidney? I understand  
2 that if the single remaining kidney were to fail, obviously,  
3 that would propose a problem medically. However, my question  
4 to you is, do you have a medical basis to suggest that because  
5 he lives with a single kidney, that he is by virtue of that  
6 fact, more susceptible to a high-risk outcome as a result of  
7 COVID?

8 Mr. Jordan, it's probably better if you don't  
9 interrupt your lawyer while I'm asking him a question because  
10 then he can't answer my question.

11 MR. HUESTON: Your Honor, it's our position that  
12 yes, because --

13 THE COURT: Not your position. I said do you have  
14 anything you can offer me from a doctor? I'm certain you're  
15 talented. I'm certain you're smart. So am I. But I'm not  
16 medical doctor. Neither are you.

17 Do you have a medical basis, something that you can  
18 provide to me from a medical expert, a doctor of any kind, who  
19 can say that the fact that he lives with a single kidney makes  
20 him more susceptible to a negative outcome if he were to  
21 contract COVID?

22 MR. HUESTON: The short answer is we have not  
23 submitted that application. But I do want to speak to the  
24 issue, your Honor. This is how we arrive at our conclusion  
25 and why we think there is a force to it.

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1 He has one kidney. That basis itself puts him at  
2 risk if he were to have complications from COVID-19. That's  
3 not our circumstance right now that we're dealing with. We  
4 agree with that. He's standing next to me. He's well. We do  
5 see it as a factor in making a determination.

6 Also the issue in terms of lockdown --

7 THE COURT: Is he, in terms of his health, I  
8 understand he has one, any different than any other  
9 36-year-old -- I think I got his age right -- healthy man? I  
10 understand if something were to happen to this kidney he would  
11 be. But as he sits here today, isn't he as healthy as any  
12 other 36-year-old? I have nothing reported in your  
13 submission, in pretrial's submission, to suggests that he has  
14 any medical issues. So he's just a healthy 36-year-old right  
15 now.

16 MR. HUESTON: He's a little older than that.

17 THE COURT: Forgive me.

18 MR. HUESTON: I'm not trying to be facetious. He's  
19 38.

20 THE COURT: Fair enough. He was 36 at the time of  
21 his arrest. I lost two years, 38.

22 MR. HUESTON: The base line itself is he only has  
23 one kidney. He has higher risk if he were to have issues with  
24 COVID.

25 THE COURT: But you don't have a medical basis for

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1 that.

2 MR. HUESTON: We do think that the lack of kidney  
3 itself is the medical basis.

4 THE COURT: And you're basing that on your medical  
5 expertise?

6 MR. HUESTON: No, your Honor, I'm not basing. I  
7 don't have medical expertise.

8 THE COURT: So you have nothing to offer me that I  
9 can look to to rely on to be able to say that the argument  
10 that you're making has any teeth.

11 MR. HUESTON: Your Honor, all I can say is that the  
12 lack of kidney is something we feel we had to present to you.

13 THE COURT: I understand that you have to tell me  
14 and I get that. But you could have told me that and said look  
15 at this letter from a doctor. This doctor has said that as a  
16 result of having a single functioning kidney, right, that  
17 makes him otherwise healthy right now, there is nonetheless  
18 some particular acute, unique risk that he faces different  
19 from another healthy 38-year-old.

20 I'm not taking issue with the fact that you raised  
21 the fact that Mr. Jordan donated a kidney to his mom; and  
22 therefore, is living with a single kidney. But what I  
23 understand is that he is living a healthy life as any other  
24 38-year-old man at this time. And if there was something else  
25 beyond that, I would have expected for you to have provided

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1 that to me. So that it is not just lawyer argument, but based  
2 in evidence of something.

3 MR. HUESTON: Your Honor, I take your point. We  
4 have no further information on that issue.

5 THE COURT: But you could have. You could have.  
6 You could have called a doctor. I don't know what a kidney  
7 specialist is called, it's escaping me. You could have  
8 contacted one, you could have given me information.

9 All I have is a healthy 38-year-old man who, again  
10 did something incredible for his mom, but nonetheless is a  
11 healthy man at 38, functioning with a single kidney with no  
12 health issues.

13 MR. HUESTON: Your Honor, there is nothing further I  
14 have to add on the point. But again, I do think that that  
15 statement itself in terms of his physical condition, that's  
16 what we proffered to you and told you about.

17 I'm prepared to move on.

18 THE COURT: That's fine.

19 MR. HUESTON: I did want to emphasize it, I think  
20 it's important --

21 THE COURT: I don't know how important it can be if  
22 you've given me nothing but your argument and no evidence. If  
23 it was that important I think you should have treated it with  
24 the importance that you believe it has. You can't expect me  
25 to treat it with that level of importance if you didn't.

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1           Go ahead.

2           MR. HUESTON: The other issues I want to talk about  
3 with respect to COVID-19, your Honor, is in terms of quality  
4 of representation in dealing with the consistent lockdowns.  
5 That's a factor the Court should look at.

6           Your Honor, is fully aware of the different orders  
7 that have gone in and the issues that have occurred at MDC in  
8 this case, and we think that's a factor the Court should look  
9 at in terms of a temporary release. We ask your Honor to look  
10 at that.

11          THE COURT: When you say look at that, you're  
12 talking about specifically difficulties that you are having in  
13 terms of the preparation for any eventual trial in this  
14 matter, or are you talking about the conditions that  
15 Mr. Jordan has had to endure as a result of the COVID-19  
16 virus? They are obviously related, but different. Can you  
17 tell me what you're referring to specifically with respect to  
18 this argument?

19          MR. HUESTON: We're talking about the conditions  
20 that he's had to endure. That's one part. The other part is  
21 for instance lockdowns, we can't have access to him. Both of  
22 them are part of that determination, your Honor.

23          THE COURT: Okay.

24          MR. HUESTON: Your Honor, unless there is specific  
25 questions that you have, there is nothing else that I have to

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1 say. Obviously I'll wait to hear from the Government, but  
2 that concludes my opening remarks.

3 THE COURT: I'll give you an opportunity when the  
4 Government is done.

5 As you can see, I've asked you the questions that  
6 I've had for you up until now as they have come to mind, which  
7 is my style. I'm going to hear from the Government. Thank  
8 you.

9 MR. McCONNELL: Thank you, your Honor. I'm not  
10 going to repeat my whole submission. I think your Honor's  
11 identified some of the relevant points as far as the context  
12 that we're operating in, which is a presumption case. There  
13 are four separate counts that Mr. Jordan is charged with, that  
14 each standing on their own, carry with them a presumption of  
15 detention.

16 Obviously the nature and circumstances of the crime  
17 speak for themselves. This was a premeditated homicide case,  
18 20 years old, but nevertheless shooting someone in the head  
19 while conspiring with others is such a brazen act of criminal  
20 act that I don't think time should matter when considering the  
21 severity of the conduct.

22 Also the attendant drug trafficking and 924(c)  
23 charges. These are very serious crimes standing on their own.  
24 The case law supports your Honor making the inference that  
25 these are both serious in terms of their potential sentencing



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1 exposure but also in terms of the danger they present to the  
2 community.

3 THE COURT: What do you say to -- putting aside the  
4 homicide charge for a moment -- I'm curious to your response  
5 to defense counsel's comments regarding the delay or the  
6 dilatory nature of the Government's act with respect to  
7 pursuing any of the narcotics charges and any attendant 924(c)  
8 charges from 2016/2017 time period.

9 MR. McCONNELL: That's a common argument that we  
10 here during any prolonged investigation where the arrest does  
11 not occur immediately after the criminal conduct takes place.  
12 All I will say about that, is that investigations take time.  
13 There are a lot of moving pieces. As your Honor can see from  
14 the Indictment, this was not simply an undercover buy and bust  
15 operation. And I'm going to leave it at that, frankly. The  
16 Court is going to have to draw whatever inference it can.

17 In any case where there is a lapse between the  
18 arrest and the criminal conduct, to simply say that the  
19 Government is not concerned about the dangerousness of that  
20 individual I think is wrong.

21 Let me segue into the strength of the case; counsel  
22 did spend a fair amount of time on that. I want to deal with  
23 the idea that the Brady disclosures in this case somehow prove  
24 that the evidence is not sufficient to convict Mr. Jordan  
25 beyond a reasonable doubt.

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1           This is 20-year-old murder case. It involved a very  
2 high-profile individual being gunned down in his own music  
3 studio, in his own neighborhood, by people that he knew.  
4 There has been a tremendous amount of investigation in this  
5 case, and for that reason we have given what I consider to be  
6 practically open-file discovery to the defense. Because,  
7 frankly, I'm not in a position to tell them what is going to  
8 be useful to their defense at trial.

9           So what we have done is virtually provide them with  
10 things I think go above and beyond our Rule 16 and Brady  
11 obligations. I strongly disagree with the insinuation that in  
12 doing so we are saying something about the strength of our  
13 case.

14           This is going to be a case that relies on witness  
15 testimony, both eye witnesses and co-conspirator testimony.

16           We do not credit the alibi witnesses. These are  
17 people who have a very close familial and financial  
18 relationship with Mr. Jordan that spans years. One of the  
19 alibi witnesses was arrested with Mr. Jordan in 2014. They  
20 were living together --

21           THE COURT: What was the disposition of that case?  
22 It's not in your submission.

23           MR. McCONNELL: With respect to the alibi witness?  
24 I don't know.

25           THE COURT: With respect to the arrest that took

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1 place in Mr. Jordan's home with a 9-millimeter recovered, the  
2 .32 revolver was recovered.

3 MR. McCONNELL: Yes, there were several individuals  
4 who were present in that house when the search warrant was  
5 executed, seven or eight, including Mr. Jordan and one of the  
6 alibi witnesses. I could speculate as to why --

7 THE COURT: I'm saying, there were no charges that  
8 were ever pursued in that case? Nothing as to the disposition  
9 unless I missed it.

10 MR. McCONNELL: I believe it was a disorderly  
11 conduct disposition with respect to this defendant.

12 THE COURT: The December 2004 --

13 MR. McCONNELL: '14 -- excuse me, 2004, yes.

14 THE COURT: It's not in your submission. The 2003  
15 disposition is in your submission where Mr. Jordan pleaded  
16 guilty to a disorderly conduct. I don't see any mention in  
17 your submission to the disposition of the --

18 MR. McCONNELL: That was resolved with a disorderly  
19 conduct as well.

20 THE COURT: As well. I see.

21 MR. McCONNELL: Again, there is case law to support  
22 this. I believe in the Jones case there was a hearing where  
23 the alibi witnesses were called. And the mere fact that they  
24 had a very close family relationship, obviously motive to be  
25 less than truthful about the defendant's whereabouts in that

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1 case. The Court for purposes of a detention hearing did not  
2 credit their testimony.

3 THE COURT: I don't have anything to credit or not  
4 credit. I don't have anyone here so.

5 MR. McCONNELL: Certainly on paper there is a clear  
6 motive to fabricate, and we'll save that for trial. As far as  
7 the DNA evidence --

8 THE COURT: Let me take a step back. I'm not going  
9 to presume a motive to fabricate. I'm not going to presume  
10 anything. I don't have them here. I have, at least by  
11 defense counsel's account, a woman who was a former correction  
12 officer and a school teacher.

13 So I'm not, as I sit here today, going to make a  
14 statement to suggest that that woman, who is not the mother of  
15 Mr. Jordan, that she would fabricate, has a motive to  
16 fabricate. The Court will make no finding nor rely on any  
17 representations in that regard.

18 What I will say is, I don't have an alibi witness  
19 who was called to provide evidence in this bail hearing.  
20 That's as much as I can say as to the alibi witnesses.

21 Go ahead.

22 MR. McCONNELL: Moving on to the issue of what the  
23 defense as characterized as exculpatory DNA evidence. It's  
24 really nothing of the sort. This was a crime scene where lots  
25 of people are going in and out. Lots of people stayed there

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1 and actually would live there on occasion. There was a hat  
2 that was recovered near Mr. Mizell's body with a mixture of  
3 several individual's DNA in that hat, and the defendant was  
4 not one of them. I don't view that as exculpatory. The  
5 defense can use it to make whatever arguments at trial. The  
6 fact an article of clothing containing lots of other DNA in a  
7 location where lots of people congregate and occasionally  
8 lived, to me is not significant, certainly for our purposes  
9 here today.

10 The other thing that I want to say is that the  
11 remaining charges, which again carry a presumption of  
12 detention, carry substantial sentencing exposure in the form  
13 of mandatory minimum sentences. Those are unassailable.

14 Mr. Jordan is recorded on both audio and video  
15 making narcotics sales to an undercover agent of law  
16 enforcement. We have witnesses who are going to testify not  
17 only to purchasing narcotics from him but to seeing him with a  
18 firearm such that they can even describe the type and the  
19 color of it and where he was keeping it in the car. Which by  
20 the way, some witnesses will say that one of his children was  
21 in the car while he was conducting this sort of activity as  
22 well. So this is really not an argument that I think should  
23 be given much credence.

24 The Grand Jury has heard evidence twice. He's been  
25 indicted for these crimes twice. That provides in and of

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1     itself an independent determination of probable cause. And I  
2     don't think that the inquiry needs to go further, certainly in  
3     the absence of any evidence proffered by --

4             THE COURT: You mentioned, you make reference in  
5     your submission on page nine, about Mr. Jordan being in  
6     possession of an untraceable and unmonitored contraband  
7     cellphone while incarcerated.

8             MR. McCONNELL: Yes.

9             THE COURT: But that's all that you said. Can you  
10    provide a little bit more color?

11            MR. McCONNELL: Sure. Mr. Jordan's cell was  
12    searched by members of the MDC. He was found in possession of  
13    a cellphone in his cell. I can't tell you that much more  
14    about it because the SIM card had been removed. It's not  
15    clear who the defendant was calling or what he was using that  
16    phone for.

17            It's a good point because, number one, even subject  
18    to COVID restrictions, 23-hour lockdowns a day sometimes, he  
19    still manages to get his hands on a cellphone, which I'm told  
20    can cost several thousand dollars. It requires coordination  
21    with someone not in the facility in order to get it in. It  
22    shows the attitude that he would take towards even the most  
23    restrictive conditions that could be imposed in a home  
24    detention situation. This is not an insignificant factor.  
25    Even in prison he's committing crimes by possessing a

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1 contraband cellphone.

2 THE COURT: Can you speak to -- I'm trying to have a  
3 better sense of the bases for the Government's assertions on  
4 the bottom of page eight of its submission with respect to --  
5 you have it under the nature and circumstance of the charged  
6 offense, but it also goes to the question of dangerousness.  
7 You talk about the attempts to or efforts to threaten or and  
8 tamper with witnesses. What is the bases for your argument in  
9 that regard?

10 MR. McCONNELL: Witnesses telling us that.

11 THE COURT: In this case or prior cases?

12 MR. McCONNELL: No, in this case. There are lots of  
13 reasons, I'll say, that it took 20 years to finally bring this  
14 case to the position that it is now. But a lot of it does  
15 have to do with the fear that people have of Mr. Jordan. It's  
16 not just a fear that is without justification or speculative  
17 fear. Mr. Jordan has made it clear to people that they should  
18 not testify. My understanding is that even one of the  
19 suretors has reached out to potential witnesses in this case.

20 I think that, to go back to the cellphone, the fact  
21 that he's got an unmonitored, untraceable way to communicate  
22 with people who can act on his behalf outside of the MDC  
23 really puts a fine point on that.

24 I want to be careful because I don't want this to  
25 turn into a discovery hearing. I want to be careful about

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1 what I say about particular witnesses. But that's the context  
2 that we're operating in.

3 Can I address a few additional points?

4 THE COURT: Go ahead.

5 MR. McCONNELL: Thank you. With respect to history  
6 and characteristics, the point has been made that these crimes  
7 were either dismissed or ended in disorderly conduct, which is  
8 a non-criminal disposition. But the case law is clear that  
9 your Honor can consider both charged and uncharged conduct  
10 when considering the issue of dangerousness. That's all I'll  
11 say on that. The case law permits the Court to do that.

12 On the COVID issue, I am completely sympathetic to  
13 the difficulties that the pandemic has caused, really the  
14 entire criminal justice system, in moving cases forward. I  
15 really do feel that defense counsel makes a very good point  
16 when he talks about the difficulties in preparing for a trial  
17 of this magnitude with these sorts of restrictions. However,  
18 that's not unique to Mr. Jordan, number one. Number two, the  
19 case law is very, very clear that in the absence of sort of an  
20 imminent hearing that release is just an extraordinary remedy  
21 to consider.

22 As the Court is well aware, we're not going to trial  
23 on this case for sometime. So I think that given the body of  
24 case law on this issue out of this courthouse and out of the  
25 Southern District of New York to release him on that basis,

*Rivka Teich CSR RPR RMR FCRR*  
*Official Court Reporter*



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1 one, distinguishes him in a way that I don't think is  
2 justified from other defendants. And two, is extremely  
3 premature.

4 I'll reiterate my offer to defense counsel that we  
5 are willing to help make whatever accommodations are necessary  
6 in order for them to meet with Mr. Jordan, whether bringing  
7 him to the courthouse, bringing him to the United States  
8 Attorney's Office, whatever can be done we will make happen.  
9 They just have to ask. But regardless I think this is  
10 premature.

11 Your Honor, has already brought out the point that I  
12 wanted to make about the defendant's health status. I think  
13 this is really a non-issue. It's certainly uncorroborated. I  
14 don't have anything else to say about that.

15 Finally, with respect to the strength of the bail  
16 package, I really don't have much to say about that either.  
17 We haven't been provided any information. I don't know the  
18 identities of the suretors. I haven't been given anything  
19 about the properties that are being put up or their potential  
20 value. We haven't been able to do any due diligence  
21 whatsoever beyond what was put in the public filing. And  
22 that's fine, but I think, again in the context of a  
23 presumption case, where the charges are this serious, it  
24 shouldn't carry the day.

25 Mr. Jordan presents a risk of flight and a danger to

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1 the community that can really only be addressed by continuing  
2 remand and that's what I would ask the Court to do.

3 THE COURT: Thank you, counsel.

4 MR. HUESTON: Just a couple of points. With respect  
5 to the narcotics part of the case. I would note in the 2017  
6 controlled buys that the Government is talking about, one  
7 thing of note is there is no allegation of any weapons or  
8 firearms and use. Again, I think this goes to the strength of  
9 the other allegations. I just want to point that out.

10 THE COURT: How dangerous do you think drug  
11 trafficking is to our community? I'm just curious.

12 MR. HUESTON: Your Honor --

13 THE COURT: I want to know if you're drawing the  
14 line of dangerousness only with respect to guns and only with  
15 respect to the murder charge. Or, do you view the sale of  
16 narcotics in our communities as also a danger to our  
17 community? Or, are you asking me not to?

18 MR. HUESTON: I'm asking you not to, your Honor.  
19 The idea of just selling drugs in and of itself, that does not  
20 show dangerousness.

21 THE COURT: Really?

22 MR. HUESTON: Yes, your Honor. I think that's a  
23 fair view of the case law.

24 What I'm pointing out about the 2017, here the  
25 Government is purporting there were controlled buys and in

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1 those of those buys there is no weapons in use. That's what  
2 I'm bringing up on that, your Honor. We asked the Government  
3 particulars about any weapons used and it's not been  
4 forthcoming. We asked, can you give us a TPO, a date where  
5 Mr. Jordan actually used a firearm in relation to narcotics.  
6 It's not happened. We've asked for this information. I do  
7 think that's a fair rebuttal to what the Government said.

8 THE COURT: If you could repeat that?

9 MR. HUESTON: We asked the Government for the time  
10 place and occurrence of uses of firearms with respect to  
11 Mr. Jordan. It's not in the 2017 controlled buys, it's not  
12 there.

13 THE COURT: Did you look at -- I'm just curious --  
14 the authority cited by the Government? Page seven of the  
15 submission speaks specifically to the dangerousness as to  
16 narcotics trafficking. I think you just said to me the case  
17 law is clear. I'm curious how you square your argument to the  
18 Court with the Second Circuit's determination in *U.S. vs.*  
19 *Millan* 1993 and *U.S. vs. Leon*, which is I believe a 1985 case,  
20 it's cited on page seven of the Government's submission, in  
21 terms of how it is that I should view narcotics trafficking  
22 for the purposes of bail, not for the purposes -- I'm not  
23 suggesting that if we were in a sentencing hearing and we were  
24 looking at enhancement, et cetera. But for these purposes,  
25 when I'm looking at a dangerousness prong, are you suggesting

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1 that ongoing narcotics trafficking isn't something that the  
2 Court should view as falling under the umbrella of  
3 dangerousness? If not, tell me how I should view this  
4 authority that is cited by the Government on page seven of its  
5 submission.

6 MR. HUESTON: Your Honor, I maintain my position  
7 about that. This is my response: We're looking at  
8 dangerousness. The factors by clear and convincing  
9 evidence -- by clear and convincing that Mr. Jordan presents a  
10 physical danger to individuals. I don't see that --

11 THE COURT: I need you to square it with the case  
12 law. I understand what you're urging me to view it. And what  
13 I'm telling you is that there is authority in this circuit,  
14 not in this district but the Court of Appeals, that says that  
15 the dangerousness calculation can and should include ongoing  
16 narcotics trafficking. This is not about your opinion or  
17 mine. So against the case law, which you got their submission  
18 just like I did, cited at page seven of the Government's  
19 submission.

20 MR. HUESTON: The response is really this, your  
21 Honor, so for instance in every case involving narcotics,  
22 (b) (1) (c) weight, that is not itself put into the presumption  
23 in terms of a person being incarcerated. As we look at it,  
24 it's the weight that is pushing the presumptions in the case.  
25 That's really the gravamen of the response. It's the weights

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1 drug dealing in and of itself --

2 THE COURT: When you say the weight, the quantity?

3 MR. HUESTON: The quantity.

4 THE COURT: The quantity of drugs involved.

5 MR. HUESTON: Yes. So in and of itself the  
6 statement "drug dealing itself is danger" --

7 THE COURT: We have seven controlled buys, so it's  
8 the ongoing nature, the potential ongoing nature, right. So  
9 one buy of a small quantity, I hear what you're saying. But  
10 what the Government is urging the Court to see is that we're  
11 talking about ongoing activity. So if you have a number an  
12 accumulation of small buys, to your point, you now have moved  
13 to a greater weight.

14 What the Government is saying is, your Honor, this  
15 is evidence of ongoing narcotics trafficking.

16 So for you to tell me but, Judge, there were no  
17 guns, there was no guns in the videos. But what I'm saying is  
18 I need to look at the narcotics trafficking as well. And you  
19 have to address in light of the case law why it is that that  
20 is not a consideration for dangerousness that I should  
21 undertake here.

22 MR. HUESTON: What I would add is this, your Honor,  
23 as well. Maybe I didn't say this as clear as I needed to say.  
24 Besides the 2017 controlled buys we have no other evidence in  
25 terms of invoices, narcotics reports --

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1 THE COURT: I was about to make a Whitney Houston  
2 joke. No invoices, no receipts on the drug buys?

3 MR. HUESTON: I'm talking about New York City  
4 undercover operations, your Honor.

5 THE COURT: I see. Okay.

6 MR. HUESTON: I apologize if I'm not being as clear  
7 as I should be. That's what I'm talking. I'm not suggesting  
8 drug dealers --

9 THE COURT: What we do have is an Indictment where  
10 there was witnesses testimony, Grand Jury Indictment  
11 concerning ongoing drug activity that occurred over a period  
12 of some years, not an isolated drug transaction but an ongoing  
13 drug trafficking operation. That's what I have. That's what  
14 I have probable cause for. The Grand Jury Indictment itself  
15 creates probable cause as to those crimes. And the crimes are  
16 not isolated but ongoing drug trafficking.

17 MR. HUESTON: Your Honor, they have the Indictment.  
18 And you're correct in pointing it out. I don't have much  
19 more, other than to say what I was pointing out with the 2017  
20 issue is that in those instances there is no guns in play.

21 THE COURT: I hear you.

22 MR. HUESTON: That's really all I'm saying about  
23 that.

24 I've asked for a particularization about any other  
25 guns and it's not been forthcoming from the Government.

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1 THE COURT: I get that. And for the purposes of the  
2 trial and the Government's burden of proof and what they need  
3 to prove to sustain the charges. But for the purposes of my  
4 caliculus here and looking dangerousness, guns are not  
5 dispositive, is my point.

6 MR. HUESTON: Your Honor, I don't disagree with what  
7 you're saying. I think it's the accumulation of different  
8 issues. I just point out the issue.

9 Then I'll say this, your Honor, the Government did  
10 point out that in December 2004 they mentioned there were  
11 eight individuals arrested. I think that's a complicated mix.  
12 He has a disorderly conduct from that. That's not dispositive  
13 with respect to Mr. Jordan. With respect to the DNA mixture,  
14 we went a little bit further than that.

15 They identified an individual with respect to the  
16 mixture. It's not just, it was a mix, they got to a lead and  
17 actually got to a person. We point that fact out, that DNA  
18 was recovered. They tested it. They tested it against my  
19 client. It came to a different person.

20 That's the point we want to make. It goes to the  
21 quality of the case that they are going to present.

22 No one is saying that the Government has been  
23 remised. They've been giving us, as they must, Brady material  
24 in the case. They are filling their obligation, it appears to  
25 us.

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1           We do point out it's a little bit more than just a  
2 mix that it didn't go to anywhere. It went to a person.

3           THE COURT: I'm sorry?

4           MR. HUESTON: It went to a person that they've  
5 identified.

6           THE COURT: I see.

7           MR. HUESTON: Your Honor, I'll end on this, unless  
8 there are other questions that you have. I think this goes to  
9 the risk of flight. Again we did mention there was this  
10 Netflix show in 2018.

11          THE COURT: I didn't see it, but okay.

12          MR. HUESTON: They call it a true crime documentary.  
13 Mr. Jordan is talked about as taking part in this murder. I  
14 would point out, Mr. Jordan didn't flee or run away or try to  
15 leave anywhere. He's living his life.

16          THE COURT: You'll forgive me, how does Netflix  
17 factor into that?

18          MR. HUESTON: That folks believe you're responsible  
19 for this murder. He doesn't run away or try to escape. He  
20 lives in the neighborhood. He lives in Hollis. Nothing has  
21 changed about his life. That's the point I want to make about  
22 that.

23          THE COURT: He knew that as of the Netflix  
24 documentary that there were more than just rumors in the  
25 neighborhood that there was focus on him, but nonetheless he



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1 didn't flee.

2 MR. HUESTON: Yes, your Honor. I think that says  
3 something about his willingness to participate in this  
4 process.

5 THE COURT: What did Mr. Jordan receive this cash  
6 settlement from and when did he get that?

7 MR. HUESTON: 2018, your Honor.

8 THE COURT: He got a cash settlement in 2018?

9 MR. HUESTON: Yes, your Honor.

10 THE COURT: For what?

11 MR. HUESTON: An accident that he was involved in.

12 THE COURT: With whom?

13 MR. HUESTON: Vehicular accident.

14 THE COURT: When did the accident take place?

15 MR. HUESTON: April of 2017, your Honor.

16 THE COURT: He recovered the money when in 2018?

17 MR. HUESTON: Perhaps about 12 months later, about a  
18 year later, your Honor.

19 THE COURT: I am curious. To the Government, page  
20 four of your submission you talk about interviews and videos,  
21 et cetera. You didn't provide any dates of any of that.

22 MR. McCONNELL: No, I didn't, your Honor. They are  
23 generally anywhere from 2010 through the offense conduct  
24 through 2017, 2018 still publicly available.

25 THE COURT: I'd like to know whether any of the

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1 photographs or videos of Mr. Jordan holding stacks of  
2 100-dollar bills and other denominations, that diamond  
3 encrusted jewelry, predated 2018. Can you find that out for  
4 me?

5 MR. McCONNELL: I can.

6 THE COURT: Give me a moment, folks.

7 Mr. Jordan has four daughters, correct?

8 MR. HUESTON: Yes, your Honor.

9 THE COURT: They each reside with their moms?

10 MR. HUESTON: Yes, your Honor.

11 THE COURT: They have for how long since  
12 Mr. Jordan's arrest or were they residing with their mothers  
13 prior to his arrest?

14 MR. HUESTON: Prior to his arrest, your Honor.

15 Your Honor, take note, he was living with the two  
16 youngest with the mother.

17 THE COURT: Mr. Jordan has had songs purchased?

18 MR. HUESTON: Yes, your Honor.

19 THE COURT: By whom?

20 MR. HUESTON: Dead Set and Geony (ph).

21 THE COURT: Is that a single company entity or is  
22 that two?

23 MR. HUESTON: It's two artists, your Honor.

24 THE COURT: Dead Set and the other one is Geony (ph?)

25 MR. HUESTON: Sorry, G-Unit.

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1 THE COURT: G-Unit.

2 MR. HUESTON: That's my mispronunciation.

3 THE COURT: When was that?

4 MR. HUESTON: 2010 and 2011. Your Honor, it's Dip  
5 Set and G-Unit. It's the mask, your Honor, I didn't hear the  
6 information. I apologize. And maybe my lack of knowledge.

7 THE COURT: I have what I need for now.

8 Anything that Pretrial Services would like to add?

9 MR. LONG: No, your Honor. We stand by our  
10 recommendation --

11 THE COURT: I know you're not talking in my  
12 courtroom without standing up. Has it been that long?

13 MR. LONG: We stand by our report and our  
14 recommendation. Of course we're available to your Honor any  
15 time to conference.

16 THE COURT: What I'd like to do is take an  
17 opportunity to digest the information that we have gone over  
18 here today. I think that the most prudent course is, or would  
19 be for the Court, to make a determination on the record as  
20 opposed to in writing which takes longer and belabors the  
21 point. Will I need to set a day and time this week to do so?  
22 I'd like to reconvene on Thursday at 1:00 o'clock.

23 MR. McCONNELL: Your Honor, I'm actually going to be  
24 out of town on work travel.

25 THE COURT: That's all right. The good thing it's a

## BAIL APPLICATION

1 big old Government, you can have someone come in your place,  
2 right?

3 Defense counsel, Thursday at 1:00 o'clock?

4 MR. HUESTON: That's fine, your Honor.

5 THE COURT: We're going to continue this over to  
6 Thursday at 1:00 o'clock. Is there anything that you wanted  
7 to add?

8 MR. HUESTON: Yes, your Honor. I did want to  
9 mention that we've been provided with information from  
10 Mr. Jordan's family that there has been a petition, 2400  
11 individuals have signed a petition about him expressing their  
12 support for him. We think that's an important factor for the  
13 Court to take into consideration.

14 THE COURT: I do see that he has support in the  
15 courtroom today. It is not lost on me.

16 Anything else before we adjourn, folks?

17 MR. McCONNELL: Not from the Government, your Honor.  
18 Thank you.

19 MR. HUESTON: Nothing from the defense. Thank you.

20 THE COURT: Thank you. I appreciate your time. I  
21 appreciate the diligence with which you approached this  
22 hearing. I'll see you on Thursday.

23 Of course, I will not have the benefit of seeing  
24 you.

25 MR. McCONNELL: I'm going to try to get here.

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THE COURT: We're adjourned.

(Whereupon, the matter was concluded.)

\* \* \* \* \*

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Rivka Teich

Rivka Teich, CSR RPR RMR FCRR

Official Court Reporter

Eastern District of New York

*Rivka Teich CSR RPR RMR FCRR  
Official Court Reporter*